Reconciliation without justice

Transitional justice in the case of the Tantura massacre

We learn to think that transitional justice can be a powerful tool in the process of reconciliation after a genocide, a war or a conflict, but such a process requires an understanding of the past as wrong, unjust and harmful, and furthermore, a collective agreement of non-repetition. A presupposition for reconciliation to take place should therefore be the unapologetic truth to be revealed and from that, justice for the victims should follow. How, then, can we talk about reconciliation in cases when this premise isn't being followed? Are there eventually the economic and political interests of the hegemonic power states that determine the discourse on the past; what is just and what is true, because if so, what is then the point of a truth commission? How we view the past seem evident, in the sense that there is a prevalent agreement regarding the unjust of the past and what should never be repeated in the future. When it comes to the contemporary political picture, however, it is no longer a story of good and evil, but of various shades of grey that we need a nuanced knowledge of history to understand. A paradox then rises, between demands for a refined understanding of the present using a clear-cut narrative of the past. How are we supposed to question the present if we cannot question its predecessor? And, more importantly, how can we seek truth, if we are not allowed to criticise the truth tellers?

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Abstract

This paper seeks to examine the present treatment of the Tantura massacre as a manifestation and representative case of the broader truth commission processes taking place within a space of active and enduring colonial rule. It will question whether the traditional procedure and understanding of transitional justice is applicative on Palestine/Israel or not. Furthermore, the text aims to problematize the issue of revealing historical truths by looking into how they are curated, who is allowed to narrate and when they are "revealed". These are variables that are quintessential to understand the context and environment in which the truth is told, and to understand the incentives behind. This article is written through a decolonial lens to prevent it from conforming with the peace orthodoxy that enables the erasure of Palestinian voices, heritage and legitimacy to further continue. Furthermore, it will advocate for applying a discussion of systemic change and decolonialisation onto the topic of Palestine, instead of viewing it as some kind of extraordinary exception, seeing that as a presupposition for any form of a genuine truth commission to happen. The "new dictionary" will be the guiding framework for this paper, laid out by scholars such as Ilian Pappe, owing to the fact that the discourse very much needs to be changed radically in order to combat the colonized framework within which we usually operate, and this change should start with the terminology. Thus, terms like *occupation* and settler *colonization* instead of the commonly used *conflict*, and *genocide* instead of *Israel-Hamas war,* which is illegitimate and untrue by nature.

Introduction

Why do we need traditional justice (TJ), and what role does it play in the current political picture? The International Centre for Transitional Justice (ICTJ) have as their main values Justice, Truth and Dignity, and claim their main role is to "hold those responsible to account, reform and build democratic institutions and prevent the reoccurrence of violence or repression" (International Center for Transitional Justice, n.d). These are unquestionably solid values, but they do not say much about the implication strategy, which on the other hand tends to be more wavering. It is possible to see patterns within

TJ-processes throughout history and around the world, not only regarding the principled theory as with the four pillars of TJ[1] but in effect such as the shared tendency of transitional justice in postwar Europe where, according professor Monika Nalepa, the opposition collaborating with the authoritarian regime can serve as insurance against transitional justice procedures due to regime's fear of having their own skeletons being reveal for the public (Nalepa, 2009), or according to various eminent PHD candidates and professors suggesting that truth commissions alone are counterintuitive with regard to improving human rights in the area where they operate, and should therefore necessarily be followed by amnesty and trials in order to have a positive impact on human rights (Olsen, Payne, Reiter, & Brahm, 2010). However, the cases assessed through the lens of TJ are unique in their form and therefore the impact of truth commissions, prosecutions and amnesty will have different and often unpredictable outcome in various instances. The matter is further complicated when injustice continues to emerge and unfold and is sometimes altered in new and unprecedented ways. In such a situation, the role of TJ is not only coming to terms with the past, but to actively hinder the unjust of the past and present from permeating the future. The pillars of reparations and guarantees of non-repetition must therefore be emphasized since immediate change is the most pressing issue to be solved.

Tantura massacre, the remains of the past

The history of Tantura is one of denial, regret and resentment and its current controversy shreds light on the enduring disregard of Nakba within Israeli discourse. There has been a shift within the academic sphere and some foundational myths regarding the Nakba has been refuted, such as "one against many" and "Arab voluntary flight", however, the main characteristic of the hegemonic narrative prevails (Pappé, 2001, p. 30). The reason why the story of Tantura is of uttermost relevance regarding TJ in case of Palestine/Israel, is due to its repercussions and effect on the present day. It was the Israeli researcher Teddy Katz, described by historian Ilian Pappe as an "[...] extraordinary student, older than me, the ultimate kibbutznik [...]" (Pappé, Israel can no longer bury the Tantura

[1] The four pillars of TJ are criminal prosecutions, truth seeking, reparations and guarantees of non-repetition (Hayner, 2022).

massacre, 2022) who for his Master thesis started exploring the villages that was affected by the Nakba. The thesis focused on five villages between Haifa and Tel Aviv, but the most shocking findings where the research done on the small coastal village on Tantura, situated south of Haifa with a population of 1,500 people. Tantura was part of the area assigned to be part of the state of Israel through the UN General Assembly resolution 181 issued in 1947, that parted historical Palestine into Jewish and Arab states, and the city of Al-Quds (Jerusalem) under international control (Haddad, 2020). Through interviews with survivors and soldiers of the Alexandroni brigade, the third IDF brigade mainly operating in the north of Palestine, and Palestinian survivors, Katz thesis disclosed that in late May 1948, the Israeli army committed a massacre to the people of Tantura, a massacre which had been completely and deliberately taken out of the history (Pappé, 2001). Katz himself was a Zionist and kibbutzim and his thesis received the highest grade possible, yet the repercussions he later faced proved both how efficient the Israeli propaganda system works when it comes to neglecting critical narratives and unwanted revelations, and the extent to which it can impose a threat on the country's legitimacy and the claim off having "the most moral army in the world" (Gvaryahu, 2024). Shortly after the thesis was examined, it was published as part of a more extensive article on the massacre in Tantura in the Israeli newspaper Ma'ariv, which eventually caused the Alexandrion-veterans, spearheaded by senior members of Erez Israel Studies to file a lawsuit against Katz (Pappé, 2001). The newly graduate received no support from his university, The University of Haifa, during the trial yet he was offered legal help from the Israeli-based Palestinian NGO Adalah. Despite that, Katz decided to make a statement disregarding his whole thesis, claiming that the testimonies he had obtained from the Palestinian survivors were untrue and his conclusion false, a statement which he regretted less than 12 hours after it was made, yet which remained the conclusion of the trial (ibid. p. 27). Katz himself had become a scapegoat within his local community, but his case was symbolic, marking the first time in Israel's history that, in effect, Israel's role in the Nakba was on trial (ibid. p. 30).

Remembrance is one of the first prerequisites for justice to be made, relating to the pillars of truth seeking and reparation/compensation for the victims. Memoricide is in effect one of the most efficient methods of continuous oppression since it usurps the

victims from their right to mourn, and by claiming their history invalid, their present resentment is also being neglected. The trial of Katz, and the repercussions of the Tantura massacre is a story that is both unique and one of many. During the Nakba, village after village were raided and the people expelled; this was one of the main components of the Israeli plan of ethnically cleansing the areas which they were to occupy (Pappé, The 1948 Ethnic Cleansing of Palestine, 2006). However, the case of Tantura was somewhat different. Since the village was mistakenly fully surrounded by the Israeli army, both from sea and land, the Palestinian villagers had no other choice but to stay and either resist or surrender. The Israeli soldiers then started segregating the men and the boys, children as young as 13, and execute them (Pappé, 2001). The oral testimonies that Katz manage to obtain from the veterans from the brigade and the Palestinians who survived is a painful reminder of the massacre as a failure from the Israeli's side, and catastrophe for the Palestinians:

> Testimony from Mordechai Sokoler, a guide from Zichrev accompanying the battalion:
>
> *Katz: How many people of Tantura surrendered, with their hands over their head?*
> *Sokoler (former Israeli soldier of the Alexandrion Brigade): Two hundred and thirty*
> *[…]*
> *Katz: How many were killed in the battle?*
> *Sokoler: They were all killed in the battle. […]*
> *Katz: For killing 230 people, it takes time.*
> *Sokoler: [Laughing] They were all concentrated in one spot.*
>
> (Pappé, 2001, p. 33)
>
> Testimony from Yousef Graf, a guide from Yaacov Zichron, accompanying the battalion:
>
> *[…]*
>
> *Katz: Where these people (the people of Tantura) killed in the battle?*
> *Graf: While occupying the village, there were many dead who were shot while staying in their homes in the village.*
> *Katz: After they surrender, actually?*

Graf: There was no surrender, it was occupation.

[Later in the conversation]

Graf: I am telling you these [Alexandroni] people, they massacred.

Katz: In an amok attack?

Graf: Yes

(Pappé, 2001, p. 31)

Testimony from Najia Abu Amr, survivor from Tantura

Katz: What do you remember from the day of the occupation?

Abu Amr: they entered the village and killed people. They entered from all directions and killed the guards who watched the village and then collected us and took us from the centre of the village toward the east.

Katz: Do you know how many people were killed?

Abu Amr: I know there were many people killed, but I don't know how many. […]. There were so many dead in this village, between 100 and 150…

(Pappé, 2001, p. 36)

Permission to narrate

Oral evidence can be a useful tool for a truth commission processes, as with the Eichman Trial, where the spoken testimonies broadcasted live on radio were the first step of reconciliating with the trauma from the Holocaust, and for many the first comprehensive encounter with the genocide (Pinchevski, 2010). However, according to historian Ilian Pappe, disregarding Palestinian oral history as untrustworthy and "wild flights of "Oriental" imagination" is part of Israels deliberate propaganda-project to claim the right to history and the right to truth (Pappé, 2001, p. 29). Another issue here is not only the fact that the testimonies are being illegitimized as a matter of course, but also how they are curated. This is further stressed when taking into account the factuality of ongoing settler colonialism, in which context the truth is being revealed. Being an Israeli comes with some unspoken truths - even though you are critical of your regime and the hegemonic discourse on history and the present day that your country is

presenting onto its population, the obstacle of your country's very foundation as amoral and oppressive remain prevalent. This does not mean (Gordon, 2023) that Israelis are to be automatically condemned merely because of their statehood, which in addition is far from the actual case. Rather, a paradox will inevitably arise when you try to seek truth through the colonial lens, which in essence is not compatible with the Palestinian truth, or the truth through a decolonial lens. For as long as Israel does not properly concede with its past atrocities and acknowledges Nakba as a matter of ethnic cleansing instead of voluntary Palestinian flight, as well as continues their daily oppression of Palestinians and ongoing genocide, every truth revealed will unavoidably be marked by a default that is the lack of introspection. Furthermore, this paradox prevails in the liberal Zionist constant strive to align a moral high ground with continuous atrocities committed by Israel, hence the echoed statement "Israel is the only democracy in the Middle East" (Gordon, 2023).

In 1984, Palestinian-American professor and academic Edward Said published the thesis "Permission to narrate" which deals with the legal aftermath of the invasion in Lebanon in 1982 and the massacres in Sabra and Shatila. Shortly after the invasion, an international commission of six jurist led by the Irish statesman and Nobel Peace Prize winner Sean MacBride investigated the claim of Israeli violation of International law during the invasion and the conclusion was clear: Israel did not only break international law by using illegal weapons, bombing civilian targets, the commission also concluded that Israel purposefully attempted ethnocide and genocide, but furthermore, "[...] it had no really valid reasons under international law for its invasion in Lebanon, for the manner in which it conducted hostilities, or for its actions as an occupying force." (Said, 1984, p. 27). Even though there was no hesitation regarding the incentives behind the invasion, namely to cripple Palestinian nationalism and institutions in Lebanon in order to then destroy the Palestinians in the West Bank and Gaza, the atrocities committed by Israel did not alter the prevailing view of the country's image: "[...] since Israel is in effect a civilized, democratic country constitutively incapable of barbaric practices against Palestinians and other non-Jews, its invasion of Lebanon was ipso facto justified." (Ibid. p. 29). The MacBride commission report was published by a British publisher. Due to its trenchant conclusion, no American publisher wished to take on that role since the

report criticised the fundamental image of Israel in the US on which the Israeli American economic support relation is built. So even though the report reached a wide audience and had unquestionably a significant effect, it still didn't manage to hit the nail on the head, since it did not evoke its target audience, which in that case was the responsible group – the US. This issue is further proven by the fact that there are now several UN Resolutions certifying Palestinians as a people and advocating for the inalienable Palestinian right to independence, yet none of them have been acknowledged by neither Israel nor the US This illustrates the point of Said's thesis and echoes the post-modern baseline that facts do not speak for themselves and are to a large extend dependent upon a narrative that can "absorb, sustain and circulate them" (ibid. p. 34). Power and knowledge are interconnected, and authority is consequently the driving force behind the narration that we learn to accept, a reality that requires us to face the hegemonic discourse with a critical perspective. To conclude, we can say that there are two main variables that ought to be considered when examining the post-trauma materials, which are to be revised parallelly and equally in order to understand the implication value and the incentives for the material to be written, let that be a commission report (such as a truth commission), or a MA thesis. Hence, comparing both the narrator's position and the context within which they work while simultaneously considering how they can contribute to a meaningful impact and change on the current situation and discourse is a presupposition for understanding the roots of the narrations we learn and reflect upon others.

Transitional Justice on occupied land

When now having examined the massacre in Tantura and the reactions to its public reveal, it leads us to question how transitional justice procedures can take place in the context of ongoing settler-colonialism and oppression. Is the methods and pillars of TJ sufficient as they are, or is a radicalisation of the term with succeeding practical effects necessary for its intended impact to be realised? Professor Anna MacDonald wrote her PhD on transitional Justice in Uganda, arguing that the environment in which TJ were conceptualised and implemented has changed notably and the states that were subjected to TJ practises are very different from today's: "[…] it (TJ) operates in radically

different contexts from those for which it was first designed in the late 1980s and early 1990s." (Macdonald, 2014, p. 51). Another issue that Macdonald stresses is the dichotomous environment in which TJ could rather easily differ the state as the perpetrators and the people as the victims, whilst there now are layers of wrongdoers which makes it difficult to penalize and even more so, to move forward. The need for a "radicalisation" of TJ becomes a pressing issue when it comes to Palestine, since even the civilians of Israel serve as appendages of their state and international actors as global mouthpieces, overlooking even the most well documented war crimes committed by Israel. Tackling the topic of dismantling the scales and zones of unjust within Israeli society, from violent, armed settlers to the defence minister Ben Gvir himself, is then necessary in order to understand when and where TJ must be implemented and where it is possible that it might not be impactful at all. If the latter is true, is a fundamental change sufficient or is it the case that TJ is an outdated practice in the face of the multipolar conflict situation we are seeing today? What further complexifies the modern issue of TJ is how it applies to countries that have ongoing conflicts, and in the case of Palestine, an ongoing genocide. Hence it is pivotal for TJ to guarantee justice with the past in order to create peace in the present and stability for the future. This takes us to the two main discourses regarding peace and justice. MacDonald reverberates professor of Law Chandra L. Sriram in her thesis, arguing that in the context of TJ, justice and peace are often viewed as two sides of the same coin, meaning that by promoting peace, and democracy, justice will be guaranteed in the future (ibid). Nevertheless, MacDonald acknowledges that there are critics of the above-mentioned statement by recognising that "[...] the peace which it (TJ) aims to create is a specific one, involving the promotion of democracy, market-based economic reforms, secular authority, centralized governance and institutions of justice." (ibid. p. 53). By aligning Transitional justice with traditional Western values and making it compatible with the liberal peace orthodoxy, the idea of democracy, justice and peace has become "mutually reinforcing imperatives"(ibid. p. 53) which again makes the narrative of Palestinian liberation one of peace as interchangeable with justice and consequently Palestinian resistance synonymous with terrorism and peace disturbance, hence the often used Israeli claim that "the Palestinians (Arabs) continuously and inherently opposes any peace-negotiations" (Nassar, 2024).

An impossible paradox?

The issue TJ in the case of Palestine is multifaceted, comprising both the urgent calls for peace, now more pressing than ever, with the crucial need to recognise and acknowledge the wrongdoings of the past extending into the present. How can we speak of reconciliation when justice has not been made for the victims, and following from that, how can justice even be made at all, when the history is so inconsolable and thorn up by unjust? One of the prerequisites for actual justice to be made is recognition of the past and with that, decolonization of the history books and the narration through which we tell the story of Palestine. The moment we start looking at the Palestinian struggle in the eyes of Palestinians, and implement their viewpoint onto our own understanding, is when we can eventually obtain a baseline for action. As long as we are holding on to the narrative given by Israel and the global West and from that trying to make sense of history and the present atrocities, we are merely maintaining this hegemonic and colonial discourse, and obfuscating the core of the issue, namely the fact that Israel is built on Zionism, driven by western imperial interests that depends on disregarding Palestinian existence. Thus, any discussion of Israel must be done with its fundamental ideology in mind, built on the pillars of anti-Semitism, nationalism and colonialism. The colonial project is no secret, as Ilian Pappe notes in one of his books "The Ethnic Cleansing of Palestine" (Pappé, 2006). In the beginning of the Zionist project of making Palestine a Jewish state by facilitating mass immigration from Europe and Russia particularly, the organizations behind the movement where openly framing their project as a matter of colonialization. The stigma related to Zionism as a colonial project didn't arise until the first successful anti-colonial organisations in the 60s, accordingly, when the decolonial lens was applied from within. In the late 19th century and half of the 20th century however, organisations like *Jewish Colonisation Association*, Society *for the Colonization of the Land of Israel* and *Palestine Jewish Colonisation Association* were prevalent symptoms of the intertwinement between the ideology and the practice (Hammad & Huneidi, 2023). The conservative peace orthodoxy, accompanied by the discourse of "a two-state solution", "the peace process" and "the need to stop the violence on both sides" without much regard for the Palestinian right to self-defence (a right which they are granted by International law) or the illegitimate and unfair

foundation of Israel, becomes highly inefficient and is merely a method of continuing the oppression, since it ultimately does not hold Israel accountable to degree which it ought to be held (Chomsky & Pappé, 2015, p. 16). If the TJ approach that engages in the context of ongoing settler colonialism adopts a language failing to platform a meaningful discussion is, as Brown puts it "[...] is less about justice and more about smoothing over [...] a difficult period of transition, [...], that allows for continued Palestinian erasure." (Browne, 2023, p. 11). As Brown further argues, there is a need for a shift in paradigm, in how we treat and talk about the history of Palestine, in order to empirically feel empathy for the trauma and pain of the present, and respect and authentic recognition for their liberation struggle and right to sovereignty. In understanding that their right to existence is the basis for their fight against imperialism is key to a liberated future.

Conclusion

Looking at the case of the Tantura considering the Nakba and placing it in a historical context of continuous oppression and colonial practices culminating in the ongoing genocide, tells us that the massacre of 1947 was not a uniquely unfortunate event. Rather, it was part of a larger policy, aiming to ethnically cleanse a population for so make way for "a land without a people for a people without a land" (Muir, 2008, p. 55). When we on the other hand know that the land was enriched with a people, a history and a culture, the settler colonial project becomes clear, and the wish to obtain justice and move towards reconciliation and peace must be done with this conscious history as a fundament, while simultaneously altering the implications it has on the present. Today, the village of Tantura is under Israeli occupation, as it has been for the past 76 years. With its beautiful Dor beach (Tantura beach) and resorts it is "One of Israels most scenic coastal stretch" and continues to attract tourists (Speiser, 2021). What the tourists might not know however, is that under the beach parking lot, there are still remains of the approximately 230 bodies murdered in the massacre in 1947. The Tantura massacre is both a metaphor and a symptom, the former in the sense that it embodies and reinforces the absent stigma of claiming to live in a moral society that is literally built on the corpses of Palestinians, whilst the latter in the sense that it captures the very notion of ignorance and denial within the societies discourse (Essa, 2022). In order

to have an actual conversation about reconciliation and the means of transitional justice in the case of Palestine, such issues needs to be addresses, and a vision of a paradigm change with Palestinian voices and aspirations as the main incentives, so that terms such as decolonisation and apartheid regime, will not evaporate and become " a useful turn of phrase" that eventually becomes part of the discourse it ought to disrupt.

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